

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**RICHARD KLEIN,**

**Petitioner,**

**Case No. C-1-01-794**

**v.**

**Judge Beckwith**

**HAROLD CARTER, WARDEN,**

**Magistrate Judge Black**

**Respondent.**

**RESPONDENT'S MEMORANDUM OPPOSING PETITIONER'S MOTION FOR  
LEAVE TO AMEND HIS HABEAS CORPUS PETITION**

Petitioner has filed a motion requesting leave to amend his habeas corpus petition. Respondent opposes his motion and asks that it be denied.

Petitioner's first habeas filed in the instant case was filed on November 16, 2001.<sup>1</sup> (R. 1) On February 11, 2003, he filed an amended petition, his second petition. (R. 15) On March 5, 2003, he filed a motion to strike the amended petition and to submit a revised petition. (R. 21) The court ordered Respondent to respond to his motion to file another amended petition. (R. 23) Since Respondent had not yet filed an answer/return of writ, Respondent did not object to the revised amended petition except that Respondent reserved the right to challenge any claims as time-barred. (R. 24) On June 10, 2003, the

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<sup>1</sup> Petitioner's first habeas petition, filed under Case No. C-1-01-10, was dismissed for failure to exhaust.

revised amended petition was filed, Petitioner's third petition. (R. 27) Respondent has subsequently filed a return of writ in response to that revised amended petition. (R. 35) Now, Petitioner seeks to file a new amended petition, which would be the fourth petition filed in this case.

Petitioner should not be permitted to file another amended petition. He has had more than ample opportunity to present his claims. His filing of multiple petitions not only wastes the Court's time and resources, but it is burdensome and unfair to require Respondent to file multiple answers to multiple amended petitions.

Respondent asks the Court to deny Petitioner's request to file yet another amended petition.

Respectfully submitted,

Jim Petro  
Ohio Attorney General

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was mailed by regular, first-class mail to Richard Klein, #350-022, Ross Correctional Institution, P. O. Box 7010, Chillicothe, Ohio 45601, on the 9<sup>th</sup> day of June, 2004.

S/Diane Mallory